

Wage and Hour Division Overview  
October 15, 2008  
Slide Notes

Slide 1: John (Jack) Finn serves as director of the Wage and Hour Division. He joined the division after serving as an attorney and lobbyist with the United Food and Commercial Workers Union. He also worked with Michigan House and Senate staff and is a former member of the Worker's Compensation Appeal Board.

Wage & Hour administers and enforces laws that protects the wages and fringe benefits of Michigan's workers and provide for the safe and legal employment of minors.

As director, Jack coordinates managers, investigators, and support staff in the enforcement of laws dealing with wage and hour issues of employment. He also interacts with business and labor on these issues.

He is a social science graduate of Michigan State University and received his law degree from the Detroit College of Law.

Jack is a member of the State Bar of Michigan, Labor Law Section.

Slide 2: The Wage & Hour Division consists of 20 investigators, 10 managers and a number of support staff. The division has a "small staff with a big agenda, and a big mission."

The Wage & Hour Division has been operating under budget constraints but does the best they can with the resources they have. They administer, educate and regulate four state labor laws:

- Act 90 Youth Employment Standards Act
- Act 154 Minimum Wage and Overtime Law
- Act 166 Michigan Prevailing Wage Act (Note: this law is only one page but it is the most complicated)
- Act 390 Payment of Wages and Fringe Benefits Act (Note: often referred to as the non-union grievance process)

Slide 3: Approximately 8,000 complaints were received this fiscal year. The fiscal year ended on September 30, 2008. The most recent fully documented fiscal year was 2007.

The division has investigated 6,347 complaints and collected nearly \$3 million dollars in wages and fringe benefits owed to Michigan workers. In addition, nearly 1,000 outreach meetings were conducted with employers to educate them on the Youth Employment Standards Act. The division has done a lot of outreach on the Youth Employment Standards Act. The Wage & Hour Division looks at outreach meetings as preventive medicine. By letting employers know what they can and cannot do. As well as,

informing employers about the requirements for employing minors, number of hours they can work, and the wages that can be paid.

#### Slide 4: **YOUTH EMPLOYMENT STANDARDS ACT - ACT 90 of 1978**

The Youth Employment Standards Act (Act 90) is an Act to provide for the legal employment and protection of minors; to provide for the issuance and revocation of work permits; to provide for the regulation of hours and conditions of employment of minors; to prescribe powers and duties of the departments of labor and education; to provide for the enforcement of this act; to prescribe penalties; and to repeal certain acts and parts of acts.

The Youth Employment Standards Act covers all Michigan employers. The Act sets work permit requirements for minors, and partners with the Department of Education. It prohibits the employment of minors in hazardous occupations, i.e. workers under 18 years of age on construction projects are not allowed to use equipment that cuts or saws. In restaurants, minors cannot use equipment such as a meat slicer.

The Act also regulates the hours of employment for minors. Minors are grouped into two categories, age group 14-15 and age group 16-17. The following list contains the allowed hours of employment for minors:

- Combined hours of school and work cannot exceed 48 hours in a work week.
- A minor may not work more than six days in a week.
- Minors are limited to working no more than 10 hours in a day, with a weekly average of 8 hours per day.
- 14- and 15-year-olds may not work after 9 p.m. or before 7 a.m.
- 14- and 15-year-olds may not work during school hours.
- A minor age 16 or older shall not work before 6 a.m. or after 10:30 p.m., Sunday through Thursday.
- A minor age 16 or older shall not work before 6 a.m. or after 11:30 p.m. Fridays and Saturdays, during school vacation periods, and during periods when a minor is not regularly enrolled in school.
- Special hours apply to workers in agricultural processing. Guidelines are available from the Wage and Hour Division.
- Approval may be granted for 16 and 17 year-olds to work beyond the hours specified in the Youth Employment Standards Act. Approvals may be obtained from the Wage and Hour Division by asking for a hours deviation.
- No deviations to work beyond the hours specified in the Youth Employment Standards Act are allowed for 14 and 15 year-olds.

The Act also provides meal and rest periods for minors. The most common question that we receive concerns meal and rest periods. If you are an adult, aged 18 or above you are not entitled to a meal or rest period, break or lunch unless these are in a union collective bargaining agreement or employer's policy.

The law in Michigan only provides meal and rest periods for minors. For example, a minor has to have a 30 minute rest break after five hours of work. That is the only law that provides for rest periods for Michigan workers.

Slide 5: No notes

#### Slider 6: **RESTRICTED OCCUPATIONS**

- Minors 14 to 17-years old may work in businesses where alcoholic beverages are sold as long as the sale of food or other goods is at least 50 percent of gross sales.
- Minors under the age of 18 cannot sell, serve, or furnish alcoholic beverages.
- For information on Liquor Control Commission regulations concerning selling and serving alcoholic beverages call (517) 322-1370.

Minors covered by Act 90 may not work in any occupation determined to be hazardous. Examples of hazardous work include, but are not limited to:

- Contact with hazardous substances, chemicals, explosives or radioactive substances
- Driving and work as an outside helper (pizza delivery, etc.)
- Jobs in the logging and sawmill industry
- Jobs using woodworking machinery
- Brazing, welding, soldering or heat treating, for those less than 16 years of age
- Work on construction sites, excavation sites, bridges, streets or highways
- Slaughtering, butchering and meat cutting
- Occupations involving power driven equipment, tools, saws, or machinery. (Bakery machines, paper product machines, metal-forming, punching and shearing machines)

Slide 7: No notes.

#### Slide 8: **MINIMUM WAGE LAW - ACT 154 of 1964**

The Minimum Wage Law is an Act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for the administration and enforcement of this act; and to prescribe penalties for the violation of this act.

Slide 9: No notes.

Slide 10: No notes.

#### Slide 11: **THE DAVIS-BACON ACT - “PREVAILING WAGE LAW”**

The Davis-Bacon Act, as amended, requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the

minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates.

### **Michigan Prevailing Wage Law**

Michigan's Prevailing Wage law covers construction workers employed on state financed or sponsored construction projects. Under this act the Wage and Hour Division establishes wage and fringe benefit rates to be paid construction workers on state projects.

The Michigan Department of Labor & Economic Growth determines prevailing rates pursuant to the Prevailing Wage Law, Act 166, P.A. of 1965. The purpose of establishing prevailing rates is to provide rates of pay for workers on construction projects for which the state or a school district is the contracting agent and which is financed or financially supported by the state.

Slide 12: No notes.

### **Slide 13: PAYMENT OF WAGES AND FRINGE BENEFITS – Act 390 of 1978**

The Payment of Wages and Fringe Benefits Act is an Act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts.

The Payment of Wages and Fringe Benefits Act provides that employees:

- Receive wages earned on a regular basis: weekly, bi-weekly, bi-monthly or monthly. Hand harvesters must be paid at least once a week unless otherwise specified in a written contract.
- Receive compensation for fringe benefits earned according to a written contract or written policy such as payment for: a holiday, time off for sickness or injury, time off for vacation or personal reasons, bonuses or authorized expenses incurred during employment.
- Receive wages earned on the regular scheduled payday for the period in which the employee quits or is discharged. Hand harvesters must be paid within one day of discharge or must be paid within three days of quitting.
- Receive wages without deductions except deductions required by law, collective bargaining agreement or the written authorization of the employee.

- Be hired and remain employed without paying an employer a fee or other consideration. Exception: fees paid to employment agencies.
- Receive a retainable pay statement at the time of payment of wages indicating hours worked, gross wages paid, an itemization of deductions and the dates for which the wages are earned.
- Receive wages in cash, check or money order. Employees may authorize direct deposit of their wages into a bank or credit union or to a payroll debit card.

Slide 14: The Payment of Wages and Fringe Benefits Act provides that employers:

- Maintain records for three years that indicate the employee's name, address, birth date, classification, rate of pay, total hours worked in each pay period, total wages paid and an itemization of fringe benefits.
- Supply the Wage & Hour Division pay records or other documents relevant to an investigation or proceeding.
- May deduct overpayments of wages or fringe benefits due to mathematical or typographical errors under special conditions. Contact the Wage & Hour Division for guidelines for deducting overpayments.
- May be subject to interest and civil penalties upon conclusion of an investigation of up to \$1000 each for failure to maintain or submit the required records and/or pay wages found due by the Wage & Hour Division, plus exemplary damages of twice the amount determined due.

## Slide 15: **FILING A COMPLAINT**

The Payment of Wages and Fringe Benefits Act covers most Michigan employers and employees. An employee who believes that his or her employer has violated this act may file a complaint with the Wage & Hour Division. A complaint alleging non-payment of wages or fringe benefits must be filed within 12 months of the alleged violation.

A complaint alleging discharge or wage reduction as a result of filing a wage or fringe benefit complaint or asserting a right provided by the Payment of Wages and Fringe Benefits Act must be filed within 30 days of the discharge or date wages were reduced.

The time required to complete an investigation depends upon the number of cases under investigation, the complexity of the claim, and cooperation of the employer and employee. Employers are required to provide records and other relevant information. Employees may be asked to assist in the resolution of their claims by providing personal

copies of fringe benefit policies, employment contracts, a personal record of hours worked, sales or customer identification if commissions are claimed and other relevant information. Employers and employees may also be asked to attend a meeting to clarify facts and negotiate a settlement of the complaint.

If a claim cannot be informally resolved, the Wage & Hour Division will issue a written determination that the employee or employer may appeal. A hearing before an administrative law judge will be scheduled. The employer and employee are expected to attend the administrative hearing to give testimony regarding the claim. The hearings officer will affirm, modify or rescind the determination. That decision can be appealed to circuit court.

Each year the Wage & Hour Division receives over 7,000 claims and collects more than \$2.0 million in wages and fringe benefits owed Michigan workers. The Wage & Hour Division does not guarantee payment of wages and fringe benefits earned. Collection depends on the employer's financial ability to pay, business closure, bankruptcy filing, or location of money and assets. There is no charge for filing a complaint.

Slide 16 through and including Slide 24: No notes.

Slide 25. Thank you for your participation in today's Webinar.

For a copy of today's presentation, send your email requests to Lisa Ross at [RossL5@michigan.gov](mailto:RossL5@michigan.gov) or call (313) 456-4699.

The Wage & Hour presentation will also be posted on the training Website at: [www.michigan.gov/bwt](http://www.michigan.gov/bwt) in the next few days.